

SUBCOMMITTEE NO. 4

Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe



PART B
Wednesday, April 9, 2008
9:30 a.m.
Room 113

(Consultant: Keely Martin Bosler)

| <u>Item</u> | <u>Department</u> | <u>Page</u> |
|--------------------|---|--------------------|
| 0855 | Gambling Control Commission | 2 |
| 1690 | Alfred E. Alquist Seismic Safety Commission | 8 |
| 8830 | California Law Revision Commission | 10 |
| 8840 | California Commission on Uniform State Laws | 13 |
| 8140 | State Public Defender..... | 15 |
| 0280 | Commission on Judicial Performance..... | 18 |
| 0390 | Contributions to the Judges' Retirement System | 20 |
| 0250 | Judicial Branch..... | 22 |
| | Trial Courts | 24 |
| | Judicial Council/Administrative Office of the Courts..... | 33 |
| | Supreme Court..... | 38 |
| | Courts of Appeal | 39 |
| | Habeas Corpus Resource Center | 41 |
| | Administrative Office of the Courts: Office of Court Construction and Management..... | 42 |

State Administration—General Government—Judiciary—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0855 Gambling Control Commission

Background. The California Gambling Control Commission (GCC) is the primary state agency that regulates and licenses personnel and operations of the state's gambling industry. The commission regulates 55 tribal casinos and more than 100 gambling establishments and cardrooms.

Governor's Budget. The Governor's budget proposes \$110.4 million to support the GCC in the budget year. This is a slight decrease from estimated expenditures in the current year due to reductions in local grants and subventions.

| Summary of Expenditures (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
|--|------------------|------------------|-----------------|-------------|
| Type of Expenditure | | | | |
| Commission | \$115,244 | \$110,388 | -\$4,856 | -4.2 |
| Total | \$115,244 | \$110,388 | -\$4,856 | -4.2 |
| Funding Source | | | | |
| Indian Gaming Special Distribution Fund | \$8,502 | \$10,422 | \$1,920 | 22.6 |
| Gambling Control Fund | 2,985 | 3,466 | 481 | 16.1 |
| <i>Budget Total</i> | <i>11,487</i> | <i>13,888</i> | <i>2,401</i> | <i>20.9</i> |
| Indian Gaming Rev Share Trust Fund | 103,757 | 96,500 | -7,257 | -7.0 |
| Total | \$115,244 | \$110,388 | -\$4,856 | -4.2 |

1. Tribal Gaming Revenues

Background. There are currently 56 tribes that operate 57 casinos with Class III games in California. Class III games are commonly referred to as Nevada-style games, which include slot machines, electronic games of chance, and many banked card games like blackjack. These casinos operate under tribal-state compacts negotiated by the Governor and ratified by the State Legislature. Proposition 1A amended the State Constitution in 2000 to authorize federally recognized Indian tribes to operate certain type of gambling on Indian lands subject to compacts negotiated by the Governor and ratified by the Legislature.

The Legislature has ratified compacts with 67 tribes since the passage of Proposition 1A. These compacts result in payments by the tribes to various state accounts.

In 2007, the Governor negotiated and the Legislature ratified amended compacts with five tribes. The proposed amended compacts are as follows:

- Agua Caliente Band of Cahuilla Indians – 5,000 Class III machines in Riverside County.
- Morongo Band of Mission Indians – 7,500 Class III machines in Riverside County.
- Pechanga Band of Luiseno Indians – 7,500 Class III machines in Riverside County.
- San Manuel Band of Mission Indians – 7,500 Class III machines in San Bernardino County.
- Sycuan Band of the Kumeyaay Nation – 5,000 Class III machines in San Diego County.

The Governor also proposed and the Legislature approved one new compact with the Yurok Tribe of the Yurok Reservation to add 99 Class III machines in Del Norte and Humboldt Counties.

There were four propositions on the February 2008 ballot to approve the 2007 amendments made to the tribal compacts for the Pechanga, Morongo, Sycuan, and Agua Caliente tribes. All of these propositions were passed by the voters.

Governor's Budget. The Governor's budget includes the following revenues from the tribal-state compacts:

- General Fund - \$430.4 million, including \$396.8 million from the new compacts.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately \$40 million to pay \$1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - \$49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - \$100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

LAO Recommends More Transparency for Tribal Gaming Revenues. The LAO recommends that the Legislature request the Administration to display tribal revenues as its own line item. The LAO finds that tribal revenues are a growing source of revenue for the state and that the recent debates concerning the propositions on the ballot in February 2008 show that there is significant public interest in knowing how much revenue the tribes are paying the state. The Department of Finance has reported that it agrees with the LAO's recommendation and plans to track tribal revenues separately in the future.

Staff Recommendation. Staff recommends that the Subcommittee request DOF to track tribal revenues separately to improve transparency of this revenue source.

2. Revenue Sharing Trust Fund

Background. In 1999, the Governor and 58 tribes reached agreements on casino compacts and the Legislature passed a law approving them. Under the 1999 compacts, tribes acquire and maintain slot machine licenses by paying into the Revenue Sharing Trust Fund (RSTF), an

account administered by the GCC that makes payments to non-compact tribes. Under current law, the annual payments to non-compact tribes total \$1.1 million for each tribe.

Since its inception, however, the RSTF has lacked sufficient funds to cover the costs of these payments. In prior years, the Legislature has appropriated funds to cure the shortfall from the Special Distribution Fund, which is another account that receives payments from the 1999 compact tribes. Legislation (Chapter 858, Statutes of 2003 [SB 621, Battin]) enacted in 2003 specifies that funding the RSTF shortfall is the first priority use of SDF funds, followed in descending order by the other allowed uses of SDF funds: problem gambling prevention programs, casino regulatory costs of GCC and the Department of Justice, and grants to local governments affected by tribal casinos.

The five compacts amended in 2007 will significantly reduce payments to the SDF. These five tribes will now end payments to the SDF and will instead make payments directly to the state. However, each of these compacts contains provisions to protect the distributions to the non-compact tribes. Four of the compacts provide that “if it is determined that there is an insufficient amount in the RSTF” the GCC must direct a portion of the four tribes’ payments to the state to the RSTF in order to cure this deficiency.

Governor’s Budget. The Governor’s budget assumes that the GCC has triggered the provision in the four recently amended compacts that requires the GCC to direct a portion of the four tribes’ payments to the state to the RSTF to cure a shortfall in the RSTF. The Governor’s budget assumes that the shortfall in the RSTF will be \$40 million in the budget year. The SDF is projected to end the budget year with a reserve of \$197 million.

LAO Finds Governor’s Proposal Ignores Current Law. The LAO finds that the Governor’s proposal to address the projected shortfall in the RSTF ignores current law that requires the first priority use for SDF funds is to cure the RSTF shortfall. The LAO recommends that \$40 million be transferred from the SDF to the RSTF, which will increase tribal gaming revenues to the state by \$40 million. While the SDF is projected to end the budget year with a reserve, this action would result in an operating deficit for the SDF. Nevertheless, the LAO finds that the current state budget situation warrants using the SDF reserves instead of the General Fund.

The LAO recommends budget bill language to authorize the Department of Finance to order a transfer from the SDF to the RSTF of up to \$50 million in case the shortfall in the RSTF increases. The LAO also recommends additional budget bill language to: (1) specify that any portion of the \$50 million not needed to cure the RSTF shortfall remain in the SDF and (2) ensure the General Fund transfer envisioned in the four tribes’ compacts will not be triggered.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt the LAO recommendation to use SDF revenues to cure the RSTF instead of the tribal gaming revenues that would flow directly to the state. This will increase General Fund revenues by \$40 million.
- Adopt LAO recommended budget bill language to authorize the Department of Finance to order a transfer from the SDF to the RSTF of up to \$50 million.

- Adopt LAO recommended budget bill language to specify that any portion of the \$50 million not needed to cure the RSTF shortfall remain in the SDF.
- Adopt LAO recommended budget bill language to ensure the General Fund transfer envisioned in the four tribes' compacts will not be triggered in the budget year.

3. Local Mitigation – Informational Item

Background. The fourth priority for expenditures from the SDF is to provide grants to local governments affected by tribal casino operations. The 2007-08 budget sent to Governor contained \$30 million for grants to local governments by tribal casinos, but these funds were vetoed by the Governor citing a recent Bureau of State Audits (BSA) report that was critical of how these grants had been expended in prior years.

The July 2007 BSA audit criticized some local government allocations of SDF grant dollars, finding that some funds were given to “projects that have no direct relationship to casinos.” Furthermore, the five compacts amended in 2007 now require the tribes to negotiate directly with counties and cities concerning environmental and public service effects of casino construction and expansion. The BSA made several recommendations to the Legislature in this report, including amendments to the law to: (1) ensure grants were spent only to “directly mitigate the adverse impacts of casinos” and (2) revise the grant allocation methodology “so that the allocation to counties is based only on the number of devices operated by tribes that do not negotiate directly with local governments to mitigate casino impacts.”

Governor’s Budget. The Governor’s budget does not include funding for local grants from the SDF in the budget year.

LAO Recommendation. The LAO concurs with the two key recommendations made by the Auditor in the July 2007 BSA audit and recommends that the Legislature modify existing law before allocating any new grant funds to local governments for casino mitigation. Furthermore, the LAO notes that if these recommendations are implemented, the amount of grant funds could be lowered because under the recently amended compacts local governments can negotiate directly with the tribes for mitigation related to the casinos.

Staff Comments. As mentioned above in the discussion on the RSTF, the SDF is facing a structural deficit resulting from the compacts that were amended in 2007. While the fund does have some reserves, they will be significantly diminished over the next few years just fulfilling the projected shortfalls in the RSTF. Current law requires that payments to non-compact tribes from the RSTF are the highest priority expenditure for SDF revenues. Therefore, committing the SDF further by allocating additional local government grants could further exacerbate the SDF structural deficit and reduce tribal revenues to the General Fund.

4. Inspection Program

Background. The 2006-07 Budget Act contained a significant increase to the commission's regulatory staff. Positions to support an electronic gaming device inspection program were approved on a limited-term basis. Furthermore, as part of the 2007-08 budget deliberations the Legislature approved supplemental report language to evaluate the performance of the GCC's slot machine inspection and testing program. This report was due to the Legislature on March 1, 2008, but has not been received to date.

Governor's Budget. The Governor's budget proposal includes \$1 million ongoing from the Special Distribution Fund to support the conversion of eight limited-term positions into permanent positions to support an electronic gaming device inspection program.

LAO Recommendation. The LAO has withheld recommendation on this budget proposal pending receipt of the report requested by the Legislature in 2007.

Staff Comments. Staff notes that these positions would be funded from the SDF, which is facing a structural deficit. Current law states that these expenditures are the third priority expenditures for SDF revenues. However, given the significant decline in projected revenues to the SDF due to the five compacts amended in 2007, these expenditures could ultimately lower the tribal revenues to the General Fund. Nevertheless, a robust inspection program could ensure fair pay-outs and revenues to the state.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal pending justification of the effectiveness of the commission's inspection program.

5. Licensing Workload

Background. The Licensing Division at the GCC is responsible for registering and/or licensing Third Party Providers of Proposition Player Services, gambling equipment manufacturers and distributors, resource suppliers and vendors, issuing work permits, and processing and reviewing initial and renewal applications for finding of suitability for tribal key or resource supplier and vendor employees.

Governor's Budget. The Governor's budget proposal includes two proposals to increase staffing for the commission's licensing division. The combined affect of these proposals would be an augmentation of \$726,000 (\$682,000 from the SDF and \$44,000 from the Gambling Control Fund) to support 7.3 new positions. The proposals include the following:

- **New Compacts** – 2.3 new positions to support increased workload in the licensing division associated with the implementation of the five compacts amended in 2007 that significantly expand the existing casino operations of these tribes.
- **General Increase** – 5 new positions to support increases in the volume of applications for finding of suitability for tribal key or resource supplier and vendor employees.

Staff Comments. The GCC has reported to staff that there is currently no backlog of applications in the licensing division. However, staff notes that with the expansion of casino

operations there will likely be an increase in applications that need processed by the Licensing Division.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal given the budget situation.

1690 Alfred E. Alquist Seismic Safety Commission

Background. The Seismic Safety Commission is the primary state agency responsible for reducing earthquake risk to life and property. The Commission investigates earthquakes, researches earthquake-related issues and reports, and recommends to the Governor and Legislature policies and programs needed to reduce earthquake risk. Legislation (SB 1278, Alquist) enacted in 2006, renamed, in memoriam, the Seismic Safety Commission to the Alfred E. Alquist Seismic Safety Commission and moved it under the purview of the State and Consumer Services Agency.

Governor's Budget. The Governor's budget proposal includes \$3.4 million from special funds for the support of the Commission. This is about the same level of funding as estimated expenditures in the current year.

| Summary of Expenditures | | | | |
|--------------------------------|----------------|----------------|-------------|------------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| Commission | \$3,343 | \$3,391 | \$48 | 1.4 |
| Total | \$3,343 | \$3,391 | \$48 | 1.4 |
| Funding Source | | | | |
| Special Funds | \$1,266 | \$1,312 | \$46 | 3.6 |
| <i>Budget Total</i> | <i>1,266</i> | <i>1,312</i> | <i>46</i> | <i>3.6</i> |
| Reimbursements | 77 | 79 | 2 | 2.6 |
| Special Deposit Fund | 2,000 | 2,000 | 0 | 0.0 |
| Total | \$3,343 | \$3,391 | \$48 | 1.4 |

1. Update on Grant Program—Informational Item

Background. The California Research Assistance Fund (CRAF) is a nonprofit corporation that was incorporated in the 1990s and was funded from settlements between the Department of Insurance and insurance companies after the Northridge earthquake. The Attorney General filed a lawsuit against CRAF in 2000 to freeze CRAF's remaining funds and dissolve the corporation. The parties entered into a stipulated judgment whereby CRAF would dissolve and all of its assets would be distributed to the Seismic Safety Commission. Approximately \$6.5 million will be transferred to the commission over several years to fund grants on research topics from the Commission's Earthquake Research Plan.

Governor's Budget. The Governor proposes to allocate an additional \$2 million in special funds for grants to fund research topics selected from the Commission's Earthquake Research Plan.

Current Status. The Commission has established a Program Monitoring Committee to oversee the grant program. The Attorney General is on this committee, along with the commission members, researchers, and engineers. The department indicates that it is currently working on six contracts with various partners for research and education efforts related to seismic safety. Some of the efforts the commission is working on include a Tall Building Initiative that will evaluate the performance of Field Act buildings and the effects of seismic retrofit. The commission is also pursuing research and education on the risk of tsunami events and joining the Art Center College of Design on an education effort related to responding to disasters. Finally, the commission is also joining the preparedness survey efforts by the Office of Emergency Services and is working with utilities on a comparative study of lifeline services in the event of a disaster.

Staff Recommendation. No action is required as this is an informational item.

8830 California Law Revision Commission

Background. The California Law Revision Commission (CLRC) was given the responsibility for substantive review of California statutory and decisional law. The Commission studies the law in order to discover defects and anachronisms and recommends legislation to make needed reforms. The Commission studies topics that have been authorized by the Legislature.

The Commission consists of the following members:

- A Senator appointed by the Rules Committee
- An Assembly Member appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

Governor's Budget. The Governor's budget proposal includes \$677,000 to support the CLRC in 2008-09. This is about \$70,000 less than is estimated for expenditure in the current year. This is a result of the Governor's 10 percent budget balancing reduction. The only augmentation made to the CLRC's budget before the budget balancing reduction was taken was funding to support employee compensation adjustments.

| Summary of Expenditures | | | | |
|--------------------------------|---------|---------|-----------|----------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| Commission | \$747 | \$751 | \$4 | 0.5 |
| Subtotal | \$747 | \$751 | \$4 | 0.5 |
| Funding Source | | | | |
| General Fund | \$732 | \$736 | \$4 | 0.5 |
| <i>Budget Total</i> | 732 | 736 | 4 | 0.5 |
| Reimbursements | 15 | 15 | 0 | 0.0 |
| Subtotal | \$747 | \$751 | \$4 | 0.5 |
| Budget Balancing Reduction | 0 | -74 | -74 | 0.0 |
| Total | \$747 | \$677 | -\$70 | -9.4 |

Budget Balancing Reduction. The CLRC has indicated to staff that it will reduce out of state travel, consolidate office space, forego some computer and software upgrades, and take additional measures to economize its resources to meet the reduction target set by the Governor.

The CLRC indicates that if budget reductions of this level are continued into the next fiscal year they may have to eliminate positions at the commission.

Current Study Topics. The CLRC is actively working on the following topics in 2008:

- **Reorganization of Weapon Statutes.** Pursuant to Chapter 128, Statutes of 2006 (ACR 73, McCarthy) the commission will study, report on, and prepare recommended legislation to simplify and reorganize the portions of the Penal Code relating to the control of deadly weapons.
- **Donative Transfer Restrictions.** Pursuant to Chapter 215, Statutes of 2006 (AB 2034, Spitzer) the commission will study the operation and effectiveness of the provisions of the Probate Code restricting donative transfers to certain classes of individuals.
- **Attorney-Client Privilege after Client's Death.** Pursuant to Chapter 388, Statutes of 2007 (AB 403, Tran) the commission will study the issue of whether and, if so, under what circumstances, the attorney-client privilege should survive the death of the client.
- **Common Interest Development Law.** The commission will continue to review statutes affecting common interest housing developments with the goal of setting clear, consistent, and unified policy regarding their formation and management and the transaction of real property interests located within them. (Common interest developments are a type of housing development that combines individual ownership of private dwellings with shared ownership of common facilities.)

Implementing CLRC Recommendations. There are nine pieces of legislation pending in the Legislature to implement recommendations from recent CLRC studies. The following is a description of the legislation that is currently being considered by the Legislature:

- AB 250 (DeVore) – Creation of a new non-probate property transfer instrument called the “Revocable Transfer of Death Deed”, which could be effective upon death of the transferor.
- AB 567 (Saldana) – Establishes the Office of the Common Interest Development Bureau as a pilot project within the Department of Consumer Affairs to provide education, dispute resolution, data collection, and abatement of violations of the law in common interest developments.
- AB 1921 (Saldana) – Makes additional changes to state law related to common interest developments.
- AB 2166 (Tran) – Makes clarifications to current law related to the jurisdiction of bail forfeiture. This is one of several law changes resulting from CLRC's work on trial court restructuring.
- AB 2193 (Tran) – Establishes the Interstate and International Depositions and Discovery Act which clarifies and refines the procedures for obtaining discovery from a witness in this state for purposes of a case pending in an out-of-state jurisdiction. California courts currently vary widely in how they handle these matters and this legislation will provide guidance on the applicable procedures in these instances.
- AB 2299 (Silva) – Makes numerous technical changes to current law to modernize existing references to audio or video recording. These revisions would thereby allow for use of existing digital recording technology.

- SB 1182 (Ackerman) – Makes various changes to amend or delete statutes made obsolete by trial court restructuring. The focus of this legislation is the transfer of cases based on lack of jurisdiction.
- SB 1264 (Harman) – Makes various changes to no contest clauses in relation to wills, trusts, and other instruments. No contest clauses are provisions of these instruments that penalize beneficiaries if the beneficiaries file a contest with the court.
- SB 1691 (Lowenthal) – This legislation makes various changes to Mechanics Lien Law.

Staff Recommendation. Staff recommends that the Subcommittee;

- Approve the CLRC's budget.
- Approve a \$74,000 reduction (equivalent to the Governor's budget balancing reduction) to CLRC's budget.

8840 California Commission on Uniform State Laws

Background. In conjunction with other states, the commission drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws (CUSL) for adoption by the various states. The Commission is composed of the following members: a member of the Senate, a member of the Assembly, six appointees of the Governor, the Legislative Counsel, and two other life-time members. The Legislative Counsel serves as the unofficial executive officer of this commission. The commission generally meets twice annually, once in December and once in July for the national meeting.

Governor's Budget. The Governor's budget proposal includes \$148,000 for the CUSL in 2008-09. This is approximately the same level of funding as is estimated for expenditure in the current year due to an increase in the dues to the National Conference of Commissioners on Uniform State Laws that is offset by the Governor's 10 percent budget balancing reduction.

| Summary of Expenditures | | | | |
|--------------------------------|------------|------------|-----------|-------------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| Commission | \$149 | \$165 | \$16 | 10.7 |
| Total | \$149 | \$165 | \$16 | 10.7 |
| Funding Source | | | | |
| General Fund | \$149 | \$165 | \$16 | 10.7 |
| <i>Budget Total</i> | <i>149</i> | <i>165</i> | <i>16</i> | <i>10.7</i> |
| Reimbursements | 0 | 0 | 0 | 0.0 |
| Total | \$149 | \$165 | \$16 | 10.7 |
| Budget Balancing Reduction | 0 | -17 | -17 | 0.0 |
| Total | \$149 | \$148 | -\$1 | -0.7 |

Budget Balancing Reduction. The CUSL has indicated to staff that it plans to absorb the reduction by working with the National Conference to reduce its dues, which are currently \$144,000. The Commission also plans to limit travel to the annual meeting to those commissioners whose attendance is required because they sit on a drafting committee of a

uniform act that is up for reading at the meeting or participate in a standing committee of the conference that holds meetings during the annual meeting.

Staff Recommendation. Staff recommends that the Subcommittee;

- Approve the CUSL budget.
- Approve a \$17,000 reduction (equivalent to the Governor's budget balancing reduction) to CUSL's budget.

8140 State Public Defender

Background. The Office of the State Public Defender (OSPD) was originally created to represent indigent criminal defendants on appeal. However, since 1990, the mandate of the office has been refocused to death penalty cases. The primary focus of the OSPD is to represent defendants in post capital conviction appeals. The Office has handled habeas corpus appeals in the past, but at present focuses primarily on appeals.

Governor's Budget. The Governor's budget proposal includes \$11 million to support the OSPD. This is over \$600,000 or 5 percent less than estimated expenditures in 2007-08. This reduction is the result of the Governor's 10 percent across-the-board budget balancing reduction which is offset by an increase in lease costs for the OSPD. The OSPD budget for 2008-09 includes virtually no adjustments for employee compensation.

| Summary of Expenditures | | | | |
|--------------------------------|---------------|---------------|------------|------------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| State Public Defender | \$11,956 | \$12,142 | \$186 | 1.6 |
| Subtotal | \$11,956 | \$12,142 | \$186 | 1.6 |
| Funding Source | | | | |
| General Fund | \$11,956 | \$12,142 | \$186 | 1.6 |
| <i>Budget Total</i> | <i>11,956</i> | <i>12,142</i> | <i>186</i> | <i>1.6</i> |
| Federal Trust Fund | 0 | 0 | 0 | 0.0 |
| Subtotal | \$11,956 | \$12,142 | \$186 | 1.6 |
| Budget Balancing Reduction | -405 | -1,214 | -809 | 0.0 |
| Total | \$11,551 | \$10,928 | -\$623 | -5.4 |

Current Workload. The OSPD currently has 127 appeal cases and 18 legacy habeas corpus cases. The OSPD reports that there are currently 80 sentenced individuals on death row that have no lawyer for the appeals process. There are about 220 inmates on death row that have an appeals lawyer, but no lawyer to represent them in their habeas corpus appeal.

1. General Budget Support

Budget Balancing Reductions. The Governor has proposed that the OSPD take a budget balancing reduction in both the current year and the budget year. The Legislature approved the Governor's proposed budget balancing reduction for the current year as part of Chapter 1 3x, Statutes of 2008 (AB 3, Budget) that was enacted in February 2008. This level of reduction requires the OSPD to hold 9.5 positions (6.5 attorney positions) vacant for the rest of the current year for savings of \$249,000. It also requires OSPD to make a \$156,000 reduction to its operating expenses in the current year. This significantly reduces the resources available for litigation expenditures in the remainder of the current year since over two-thirds (\$1.5 million) of the office's operating expenses are for fixed costs (rents, information technology licenses, etc.). Therefore, the Office reports that this reduction will likely impact the quality of their representation.

The budget balancing reductions proposed for the budget year require OSPD to eliminate the 9.5 positions (6.6 attorney positions) it is holding vacant in the current year. This will reduce the ability of the OSPD to take additional capital conviction appeals cases and will increase the backlog of capital conviction appeals. Eliminating the vacancies will reduce personnel services by \$912,000. Therefore, the department will have to reduce approximately \$302,000 from its operating expenses to meet the \$1.2 million target in the budget year. This would require the OSPD to cut into its fixed costs and eliminate nearly all litigation support for capital conviction cases. The OSPD indicates that it would likely have to start the lay-off process to reach this level of savings in the budget year.

Governor's Budget. The Governor's budget proposal includes \$170,000 from the General Fund to support the increased costs of leasing both the OSPD's Sacramento and San Francisco offices. The OSPD leases privately-owned space in both locations and lease costs in both locations have increased approximately 20 percent over the last five years.

Compounding Reductions to OSPD Impact Capital Appeals Process. Staff finds that since 1999-00 the OSPD has lost 41 positions (18 attorney positions). The Governor's budget balancing reduction will eliminate another 9.5 positions (6.6 attorney positions). These staff reductions have seriously hampered the ability of the OSPD to take additional capital appeals cases. Over the same time period, over 150 persons (19 per year) have been sentenced to death resulting in a growing backlog of individuals on death row that have no attorney representation. The OSPD estimates that there are currently 80 sentenced individuals on death row that have no attorney representation.

The OSPD estimates that sentenced individuals on death row wait an average of 5 years to have an appeals attorney appointed and about 10 years to have a habeas corpus attorney appointed. This wait impacts the quality of the appeals process because as time goes by evidence is lost, witnesses die, and other facts related to the original case are lost. This wait will continue to grow if the Governor's budget balancing reductions are implemented.

Reductions Have Unintended Consequences. The Governor's budget balancing reductions would completely eliminate all salary savings, including the 5 percent that is standard practice in state budgeting. This means that the OSPD may have to pursue a lay-off process and be forced

to further reduce their already low support staff ratio. Currently, OSPD has one legal secretary for every 11 attorneys. This is significantly below the rate at the DOJ (one legal secretary for every four attorneys), which means that presently attorney productivity is hampered by limited support resources. The Governor's budget balancing reductions would further exacerbate this problem.

Furthermore, staff finds that the Governor's budget balancing reductions would also completely eliminate the ability of the OSPD to contract for expertise and other services (including interpreter services) in their efforts to represent their clients. This would impact the OSPD's ability to competently represent its existing clients.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget change proposal to fund the lease increases.
- Reduce the OSPD by \$591,000 in the budget, thereby restoring \$623,000. This will keep the OSPD at its 2007-08 budget level. This will allow OSPD to maintain some salary savings, backfill some vacancies, and contract for limited services.

0280 Commission on Judicial Performance

Background. The Commission on Judicial Performance is an independent agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to the California Constitution. The Commission is composed of 11 members: three judges appointed by the Supreme Court; two attorneys appointed by the Governor; and six lay citizens, of whom two are appointed by the Governor, two are appointed by the Senate Committee on Rules, and two are appointed by the Speaker of the Assembly.

Governor's Budget. The Governor's budget includes \$4.1 million from the General Fund to support the Commission in the budget year. This is \$422,000 and 9 percent less than estimated expenditures in the current year. This reduction is due to the Governor's across-the-board budget balancing reduction proposal.

| Summary of Expenditures | | | | |
|------------------------------------|----------------|----------------|---------------|-------------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| Commission | \$4,495 | \$4,526 | \$31 | 0.7 |
| Total | \$4,495 | \$4,526 | \$31 | 0.7 |
| Funding Source | | | | |
| General Fund | \$4,496 | \$4,527 | \$31 | 0.7 |
| <i>Budget Total</i> | <i>4,496</i> | <i>4,527</i> | <i>31</i> | <i>0.7</i> |
| Judicial Branch Workers' Comp Fund | -1 | -1 | 0 | 0.0 |
| Total | \$4,495 | \$4,526 | \$31 | 0.7 |
| Budget Balancing Reduction | 0 | -453 | -453 | 0.0 |
| Total | \$4,495 | \$4,073 | -\$422 | -9.4 |

Current Workload. The 2007 Annual Report for the Commission on Judicial Performance reported that in 2007 it considered 1,077 new complaints that named 812 different judges. The Commission also received 148 complaints about subordinate judicial officers and two complaints about State Bar Court judges.

During 2007 the Commission issued three orders of removal, one public censure, five public admonishments, nine private admonishments, and 20 advisory letters to judges. The Commission also disciplined two subordinate judicial officers.

Budget Balancing Reductions. The Commission estimates that the only way they can meet the reduction target set by the Governor is to keep five positions (3 attorney positions) vacant. The Commission has indicated that under this scenario each attorney on staff will have to take on a larger caseload, which will result in less timely disciplinary investigations and proceedings. This assumes that there is no significant change in the number of complaints and investigations. The Commission has minimal operating expenses (\$100,000) above its fixed costs (rent).

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget for the Commission on Judicial Performance.
- Approve the budget balancing reduction for the Commission on Judicial Performance.

0390 Contributions to the Judges' Retirement System

Background. The Judges' Retirement System (JRS) funds retirement benefits for California's Supreme, Appellate, and Trial Court Judges. Currently there are two systems, one for judges first appointed or elected before 1994 (JRS I) and one for judges first appointed or elected after November 9, 1994 (JRS II). Both of these systems are administered by the California Public Employees' Retirement System (CalPERS).

JRS I Overview. The JRS I system is funded by the following sources:

- Member contributions statutorily set at 8 percent of salary.
- Employer contributions statutorily set at 8 percent of salary.

This plan is a "pay as you go" system and member and employer contributions and interest earnings are insufficient to pre-fund this plan. Therefore, current law requires additional contributions from the General Fund to make up the difference between existing contributions and the required benefit payments to retired judges.

This plan currently has 755 active and inactive members and is paying benefits to 1,720 retirees, survivors, and beneficiaries.

The maximum service retirement formula is 75 percent of active judicial salaries with 20 years of service at age 60. The minimum vesting requirement is five years of service. Retired judges in the JRS I system continue to receive annual increases to their retirement benefits that are commensurate with the increase provided to active judges.

JRS II Overview. The JRS II system is funded by the following sources:

- Member contributions statutorily set at 8 percent of salary.
- Employer contributions based on an actuarial valuation that is currently 19.9 percent.

This plan currently has 941 active members and is paying benefits to 10 retirees, survivors, and beneficiaries.

The maximum defined benefit service retirement formula is 75 percent of the average monthly salary during the last 12 months on the bench with 20 years of service at age 65. The minimum vesting requirement is five years of service.

Current Year Deficiency. A Finance Letter (dated January 9, 2008) was received from the Department of Finance (DOF) requesting approval of deficiency funding from Item 9840 to fund a current year shortfall in the Judges' Retirement Fund. The DOF estimates that the shortfall is approximately \$12.9 million in 2007-08. This increase is a direct result of a revised estimate of the average percentage salary increase for the current fiscal year for all California state employees. The appropriation to fund this deficiency is currently contained in SB 1068 (Budget) and is pending action in the Senate.

Governor's Budget. The Governor's budget proposal includes \$417 million (\$228 million General Fund) to support the two judges' retirement systems in the budget year. The budget estimates that \$178 million from the General Fund will be needed to make up the difference between existing contributions and the actual benefit payments for JRS I in the budget year. Increased benefit payments from JRS I are driving the need for additional General Fund monies and are up about 17 percent over estimated current year levels.

| Summary of Expenditures (dollars in thousands) | | | | |
|--|------------------|------------------|-----------------|-------------|
| | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| State Operations | \$3,364 | \$3,486 | \$122 | 3.6 |
| Local Assistance | 191,111 | 224,848 | 33,737 | 17.7 |
| Unclassified | 183,085 | 188,741 | 5,656 | 3.1 |
| Total | \$377,560 | \$417,075 | \$39,515 | 10.5 |
| Funding Source | | | | |
| General Fund | \$194,475 | \$228,334 | \$33,859 | 17.4 |
| <i>Budget Total</i> | <i>194,475</i> | <i>228,334</i> | <i>33,859</i> | <i>17.4</i> |
| Judges' Retirement Fund | 182,047 | 187,508 | 5,461 | 3.0 |
| Judges' Retirement System II Fund | 1,038 | 1,233 | 195 | 18.8 |
| Total | \$377,560 | \$417,075 | \$39,515 | 10.5 |

JRS I Costs Will Continue to Soar. The significant General Fund increase for the Judges' Retirement System is being driven by increased payments to judges retiring under the JRS I system. These large increases are likely to continue for the next five years or so, as judges in the JRS I system continue to retire at a faster rate. Since retirement payments under JRS I continue to grow with active judges' salaries, the General Fund payments are being driven both by increases in the number of retiring judges under JRS I and salary increases for active judges.

Staff Comments. In order to avoid the deficiency faced by the Judges' Retirement Fund in the current year, the Administration has included a 3.25 percent increase to approximate the average annual salary increase of all California state employees in the budget year. There is some downside risk to this estimate given that 20 of 21 bargaining unit contracts will expire in the budget year. The Governor's budget assumes a reserve for the Judges' Retirement Fund that is equivalent to one-month of expenditures from the fund.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve as budgeted the Contributions to Judges' Retirement System.

0250 Judicial Branch

Background. The California Constitution vests California's judicial authority in a three part court system composed of the Supreme Court, the Courts of Appeal, and the Trial Courts (also referred to as Superior Courts). The budget for the Judicial Branch is divided between two main segments, the State Judiciary and the Trial Courts. The State Judiciary encompasses the activities of the following entities:

- **Judicial Council**—The Judicial Council of California administers the state's judicial system. The Administrative Office of the Courts is the administrative arm of the Judicial Council and oversees the Judicial Branch Facility Program.
- **Supreme Court**—The highest court in the state judicial system reviews legal questions of statewide importance and appeals of all death penalty judgments.
- **Courts of Appeal**—The six district Courts of Appeal hear appeals in all areas of civil and criminal law.
- **Habeas Corpus Resource Center**—This center provides legal representation for defendants in death penalty habeas corpus proceedings in the Supreme Court and in the federal courts.

The largest component of the budget for the Judicial Branch is local assistance for California's 58 Trial Courts (one in each county). Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle) shifted primary fiscal responsibility for these courts from the counties to the state. Under this law, the state now funds the Trial Courts above a fixed county contribution.

Additional legislation and a voter initiative have further reshaped the Trial Courts since 1998. Proposition 220, passed by the voters in 1998, unified the county's superior and municipal courts into a one-tier trial court system. Chapter 1010, Statutes of 2000 (SB 2140, Burton) gave the courts the status of independent employers, making Trial Court staff employees of the court. Finally, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), set up a framework to transfer the courthouses from the county to the state. The Judicial Branch is currently in the process of making these transfers and current law allows facilities to be transferred until the end of the 2006-07 fiscal year.

Governor's Budget. The Governor's budget proposes \$3.7 billion to support the Judicial Branch, which is a slight decline from estimated expenditures in the current year. General Fund support for the Judicial Branch is \$2.2 billion, which is slightly less than estimated expenditures in the current year. The slight reduction in the budget year is primarily due to the Governor's 10 percent across-the-board budget balancing reductions. The Governor proposes to make this reduction from a base budget for the Judicial Branch that includes the annual State Appropriations Limit adjustment for the trial courts.

| Summary of Expenditures (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
|--|--------------------|--------------------|------------------|-------------|
| Type of Expenditure | | | | |
| Supreme Court | \$45,453 | \$47,954 | \$2,501 | 5.5 |
| Courts of Appeal | 200,723 | 219,100 | 18,377 | 9.2 |
| Judicial Council | 130,859 | 143,956 | 13,097 | 10.0 |
| Judicial Branch Facility Program | 69,679 | 104,339 | 34,660 | 49.7 |
| State Trial Court Funding | 3,247,918 | 3,411,134 | 163,216 | 5.0 |
| Habeas Corpus Resource Center | 14,263 | 14,898 | 635 | 4.5 |
| Total | \$3,708,895 | \$3,941,381 | \$232,486 | 6.3 |
| Funding Source | | | | |
| General Fund | \$2,236,316 | \$2,462,256 | \$225,940 | 10.1 |
| Special Funds | 1,402,119 | 1,403,996 | 1,877 | 0.1 |
| <i>Budget Total</i> | <i>3,638,435</i> | <i>3,866,252</i> | <i>227,817</i> | <i>6.3</i> |
| Federal Trust Fund | 7,043 | 8,239 | 1,196 | 17.0 |
| Judicial Branch Workers' Comp Fund | 2 | 2 | 0 | 0.0 |
| Reimbursements | 63,416 | 66,888 | 3,472 | 5.5 |
| Total | \$3,708,896 | \$3,941,381 | \$232,485 | 6.3 |
| Budget Balancing Reduction | 0 | -245,944 | -245,944 | 0.0 |
| Total | \$3,708,896 | \$3,695,437 | -\$13,459 | -0.4 |

Budget Balancing Reduction. The Governor has proposed a 10 percent unallocated reduction to the Judicial Branch. The Administration has proposed that the courts themselves determine how this reduction would be achieved. The Administrative Office of the Courts (AOC) and the LAO note that a budget reduction of the size proposed by the Governor would affect trial court operations, with civil cases disproportionately bearing the brunt of any delays in trials that resulted from a shortfall in available resources. That is because statutorily enforced time lines would force the judicial branch to give criminal cases higher priority in order to prevent the dismissal of charges against defendants. In addition, the AOC estimates that other services provided by the court would also be reduced or eliminated to accommodate an ongoing reduction of the level proposed in the Governor's budget.

A Finance Letter (dated April 1, 2008) requests a technical change to how the Department of Finance allocated the budget balancing reduction across the State Judiciary and the Trial Courts.

These technical changes have no impact on the amount of the budget balancing reduction to the Judicial Branch being proposed by the Governor.

Trial Courts

1. Trial Court Funding – SAL Growth Factor

Background. According to state law, the Trial Court Funding program is to receive annual budget increases equivalent to the year-over-year growth in the State Appropriations Limit (SAL). The trial courts receive SAL adjustments for their baseline operations, and these adjustments are to exclude funding provided for judicial officers. Specifically, the SAL statute applies the SAL growth rate annually to the following funding sources for the trial courts:

- Specified General Fund appropriations for the trial courts;
- Maintenance of Effort payments by the counties (set at \$698,068,000 in statute);
- Historical state funding shift of revenues from the Trial Court Improvement Fund (fines and penalties) to the Trial Court Trust Fund to cover trial court operations (set at \$31,563,000 in statute);
- Funding deposited in the Court Facility Trust Fund (county facility payments) for court facilities that have transferred to the state not less than two years earlier.
- Court filing fees and surcharges deposited into the Trial Court Trust Fund in the 2005-06 fiscal year (set at \$369,672,000 in statute).

Governor's Budget. The Governor's budget proposal would provide the trial courts with SAL at a cost of \$126.2 million General Fund. While the Governor's budget does technically provide the trial courts with the full SAL adjustment, the increase would be eliminated if the Governor's budget balancing reduction was enacted. The year-over-year change in the State Appropriations Limit for the budget year is 4.79 percent.

LAO Option to Suspend SAL. The LAO has identified an option for reducing the budget for the Judicial Branch to suspend, on a one-time basis, the SAL adjustment allocated to the trial courts. This option would result in ongoing savings to the state of \$126 million that would grow marginally in future years.

The LAO notes that the trial courts currently have significant reserves and collectively trial courts are in strong financial condition. In a report submitted to the Legislature by the AOC, it was reported that revenue received by the 58 superior courts exceeded their expenditures in 2006-07 by \$54 million. In addition, the total amount of assets held in reserve by the trial courts in 2006-07 totaled \$590 million. (Of these reserves, \$235 million were classified as being restricted by contractual or statutory obligations leaving \$355 that were not obligated.) The LAO indicates that the trial courts could use their considerable reserves to buffer against the loss of state funding if the Legislature decided to suspend the SAL adjustment. The LAO notes that this action would likely force the trial courts to prioritize the use of its reserve funds and may impact or delay information technology projects and other projects planned by the trial courts to improve court operations.

AOC Budget Balancing Alternative. The AOC has provided another option for the Legislature to consider in meeting the reduction target set by the Governor. Under the AOC's scenario, the trial courts would be provided the full workload budget contained in the Governor's budget, including the full SAL adjustment. However, the funding to support the trial courts would come from the reserves held by the trial courts on a one-time basis. Under this scenario, the trial courts would continue to grow at the SAL rate, but would be funded with one-time reserve funds. Under this scenario, the Judicial Branch would not sustain an ongoing reduction to its operations.

The AOC is proposing that \$167.5 million be redirected on a one-time basis from the trial court reserves to meet the General Fund reduction target set by the Governor. This is slightly more than the year-over-year trial court funding increase (\$163 million) proposed by the Governor.

Staff Comments. Staff finds that the AOC's budget alternative is a one-time solution and does not help the Legislature address the structural imbalance in the state's budget. The LAO's option does result in ongoing savings, but it will likely result in real impacts to the Judicial Branch's operations.

The SAL template that the Judicial Council uses to allocate the SAL funding has not been received by staff to date. The AOC reports that it is still being developed. The AOC has indicated to staff that because trial court security was not fully funded in the current year they may have to allocate all of the equalization funds (funds that go to under-resourced courts) to fund this shortfall.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

2. New Trial Court Judgeships

Background. In 2006, the Governor proposed adding 150 judges over a three-year period. The Legislature approved 50 new judgeships in 2006 (Chapter 390, Statutes of 2006 [SB 56, Dunn]) and another 50 new judgeships in 2007 (Chapter 722, Statutes of 2007 [AB 159, Jones]).

The Judicial Council has approved a plan for allocating the first 50 judgeships and, to date, the Governor has appointed 40 of the new judges. The start date for the 10 judges that have not been appointed by the Governor was delayed to July 1, 2008, by special session legislation (Chapter 6xxx, Statutes of 2008 [AB 8, Budget]) enacted in February 2008. The allocation of the first 50 new judgeships and the status of the appointments are summarized in the following table:

| County | Judges Allocated | Judges Appointed | County | Judges Allocated | Judges Appointed |
|---------------|-----------------------------|-----------------------------|----------------|-----------------------------|-----------------------------|
| Butte | 1 | 0 | Riverside | 7 | 7 |
| Contra Costa | 1 | 1 | Sacramento | 5 | 5 |
| Fresno | 4 | 3 | San Bernardino | 8 | 8 |
| Kern | 2 | 2 | San Joaquin | 3 | 3 |
| Los Angeles | 2 | 2 | Shasta | 1 | 1 |
| Madera | 2 | 0 | Solano | 1 | 1 |
| Merced | 2 | 2 | Sonoma | 2 | 1 |
| Monterey | 1 | 1 | Stanislaus | 3 | 0 |
| Orange | 1 | 0 | Tulare | 2 | 2 |
| Placer | 1 | 1 | Ventura | 1 | 0 |

The Judicial Council has also approved the allocation of the second 50 new judgeships that were authorized in 2007. The start date for the second set of 50 new judgeships was delayed to June 1, 2009, by the same special session legislation that delayed the 10 judgeships authorized in 2006. The planned allocation for the second 50 judgeships is as follows:

- Contra Costa – 1
- Fresno – 3
- Humboldt – 1
- Kern – 2
- Los Angeles – 1
- Merced – 2
- Monterey – 1
- Orange – 2
- Placer – 2
- Riverside – 6
- Sacramento – 5
- San Bernardino – 7
- San Diego – 1
- San Joaquin – 3
- San Luis Obispo – 1
- Santa Cruz – 1
- Shasta – 1
- Solano – 2
- Sonoma – 1
- Stanislaus – 2
- Sutter – 1
- Tulare – 2
- Ventura – 1
- Yuba - 1

Chapter 722, Statutes of 2007 (AB 159, Jones) also authorized the conversion of 162 subordinate judicial officer positions to judgeships as the posts become vacant. This legislation capped the number of conversions that could occur in a single fiscal year to 16. The subordinate judicial officers eligible for conversion to judgeships are located in the following counties:

- Alameda – 6
- Contra Costa – 6
- El Dorado – 2
- Fresno – 3
- Imperial – 1
- Kern – 2
- Los Angeles – 78
- Marin – 2
- Merced – 2
- Napa – 1
- Orange – 14
- Placer – 1
- Riverside – 6
- Sacramento – 5
- San Diego – 7
- San Francisco – 9
- San Luis Obispo – 2
- San Mateo – 2
- Santa Barbara – 2
- Santa Cruz – 1
- Solano – 3
- Sonoma – 2
- Stanislaus – 1
- Tulare – 2
- Yolo – 2

Governor's Budget. The Governor's budget included funding to establish the third set of 50 new judgeships on June 1, 2009. The budget contained \$33.9 million for the first month of funding and one-time facility costs for the third set of 50 judgeships. The budget also contained an additional \$37 million to fully fund the second set of 50 judgeships authorized in 2007.

The Judicial Council has approved the allocation of the third set of 50 new judgeships. Senate Bill 1150 (Corbett) is pending in the Senate to authorize the third set of 50 new judgeships. The planned allocation for the third 50 judgeships is as follows:

- Contra Costa – 1
- Fresno – 3
- Humboldt – 1
- Kern – 2
- Los Angeles – 1
- Merced – 2
- Monterey – 1
- Orange – 2
- Placer – 2
- Riverside – 6
- Sacramento – 5
- San Bernardino – 7
- San Diego – 1
- San Joaquin – 3
- San Luis Obispo – 1
- Santa Cruz – 1
- Shasta – 1
- Solano – 2
- Sonoma – 1
- Stanislaus – 2
- Sutter – 1
- Tulare – 2
- Ventura – 1
- Yuba – 1

Special Section Action. As mentioned above, special session legislation was enacted in February 2008 to delay the appointment of 10 of the judgeships that had not been appointed from the first set of 50 judgeships authorized in 2006 until July 1, 2008. The legislation also delayed for one year, until June 1, 2009, the appointment of all 50 of the second set of judgeships

authorized in 2007. This action also reduced all expenditures related to the third set of 50 judgeships from the budget. This action generated \$21.9 million in one-time General Fund savings in the current year and \$54.2 million in one-time General Fund savings in the budget year. This leaves \$16.8 million in the budget to support one month of funding for the second 50 judgeships plus one-time facility costs related to the judgeships.

Staff Comments. Staff notes that the savings achieved by the Legislature in delaying the implementation of the new judgeships is one-time savings. Therefore, this action does not help the state to address the structural shortfall in the state budget. Staff finds that adding additional judges in the budget year will further increase out-year costs to the state.

Staff Recommendation. Staff recommends that the Subcommittee delay, by one additional month, the start date for the second 50 judgeships to July 1, 2009 for a savings of \$16.8 million in the budget year.

3. Omnibus Conservatorship and Guardianship Reform Act of 2006

Background. Last year, the Legislature approved the Governor's budget proposal to fund the Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones). This act reforms the conservatorship and guardianship system, including significantly increasing court oversight. These reforms were initiated after evidence that the state's conservatorship system for elderly and dependent adults was fraught with fraud and abuse. All of the funding (\$17.4 million General Fund) to support the implementation of this Act was vetoed by the Governor.

The AOC has indicated that the courts have started to implement this Act to varying degrees through the use of one-time resources. However, the lack of ongoing funding for this Act has prevented its full implementation.

Governor's Budget. The Governor's budget restored the \$17.4 million (\$3.3 million one-time) General Fund to implement the Conservatorship and Guardianship Reform Act of 2006.

Recent Report on Court Effectiveness in Conservatorship Cases. A recent report submitted to the Legislature by the Judicial Council reviewed the trial courts' conservatorship caseload. This study also sought to establish a baseline estimate of the staffing needed to meet statutory requirements in the processing and oversight of the conservatorship caseload and determine the overall effectiveness of the courts in conservatorship cases. This study finds that in 2005-06 approximately 5,600 petitions for conservatorship were filed and 1,600 petitions for the appointment of a temporary conservator were filed. The study also found in a sampling of cases over 20 percent were missing investigation reviews and 10 percent were missing accounting reviews.

The study also estimated the statewide staffing need for processing the conservatorship caseload. The study estimates that the median workload for each new filing of a conservatorship takes approximately 17.6 hours, with most of this time being spent on conducting the initial

investigation. The study also finds that the total workload per year for each conservatorship under the court's jurisdiction is approximately 12.1 hours and most of this time is spent conducting reviews. Overall, the study identified a deficiency in statewide staff of 357 full-time equivalents to support the existing conservatorship caseload. This deficiency does not take into account the expanded role of the judiciary under the Omnibus Act of 2006.

Staff Comments. Staff finds that the Omnibus Act of 2006 makes important changes to improve the oversight of the state's conservatorship system and reduce fraud and abuse of elderly and dependent adults. However, given the state's current fiscal condition and the potential impact of the budget balancing reduction on court operations, staff finds that it is unlikely that resources will be available to fund new initiatives such as fully implementing the Act in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal and suspend, for one more year, the implementation of this statute.

4. Trial Court Security

Background. When the state took over as the primary funding source for trial court operations in 1998, varying levels of security were being provided among the courts. Subsequent legislation (SB 1396, Dunn) enacted in 2002 required the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court. The legislation required the court and the sheriff or marshal to enter into an annual or multi-year memorandum of understanding specifying the level, costs, and terms of payment related to the court security.

In 2003, the Judicial Council was directed to establish a working group to promulgate uniform standards and guidelines in regard to court security services. The group was directed to implement policies, standards, and establish policy direction for court security in order to achieve efficiencies and reduce security operating costs.

2007 Budget Proposal Was Rejected. The Governor's 2007 May Revision proposal contained \$36.6 million from the General Fund to augment trial court security. This funding would have grown to \$57.8 million General Fund to reflect full-year costs of the augmentation. This funding was proposed to augment the \$21 million that was already allocated to the trial courts for court security. Ultimately, this funding proposal was rejected by the Legislature and not included in the 2007-08 Budget Act.

The 2007 proposal was the result of the working group directed by the 2003 legislation. Specifically, the funding in the proposal would have addressed the following:

- **Ongoing Shortfalls for Courts *Below* Standards.** \$4.4 million to address ongoing security costs for existing levels of service at some courts that are below security standards.
- **Ongoing Shortfalls for Courts *Above* Standards.** \$6 million to address ongoing security costs at six courts (\$5.6 million for Los Angeles County) whose security services currently exceed statewide security funding standards.

- **New Court Security Standards.** \$21.2 million for half-year costs associated with implementing new court security standards at courts that are currently below security standards developed by the Court Security Working Group and approved by the Judicial Council.
- **Retiree Health Costs.** \$5 million to fund retiree health costs in six counties where the courts have historically funded these costs. The six counties are Contra Costa, Kern, Los Angeles, Sacramento, and Santa Clara.

The budget proposal also included scheduling court security in a separate item in the budget and draft trailer bill language that would address the following:

- Accountability provisions;
- Provision that SAL will provide the only annual adjustment to security funding;
- Cost containment measures;
- Reporting requirements; and
- Process for addressing emergency funding needs for court security.

The trailer bill was also rejected by the Legislature in 2007. Currently, AB 1876 (De Leon) is being considered by the Assembly to address trial court security.

Governor's Budget. The Governor's budget does not contain additional funding to implement the proposal developed by the working group that was directed by the 2003 legislation.

Courts Cannot Contain Security Costs. In most cases, the county sheriff determines the minimum level of security required in a court facility. In addition, the county board of supervisors, as opposed to the court, negotiates the level of salaries and benefits with the sheriff. Court security costs have grown rapidly over the past several years. Specifically, trial court security costs have increased from about \$263 million in 1999-00 to about \$450 million in 2006-07. This increase of about 8 percent annually is mainly attributed to negotiated salary increases received by sheriff's deputies.

LAO Option. The LAO recommends that the Legislature consider legislation that would direct the courts to contract for court security on a competitive bidding basis with both public and private security providers. The LAO finds that opening the bidding up to competition would allow the courts to gain greater control of rapidly escalating security costs. The LAO estimates that there would be only minor savings in the budget year, but potential savings could be \$100 million or more at full implementation.

Inconsistent Funding Levels. The proposal submitted by the Governor in 2007 does not set consistent standards across jurisdictions related to the costs that the state will fund related to court security. Specifically, the state will continue to fund some courts for security service that exceeds state funding standards, while other courts will only be brought up to minimum standards by this proposal. Staff finds that this policy opens the state up to significant additional costs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.

- Request that staff, the LAO, DOF, and AOC explore options for containing trial court security costs.

5. Court Reporting

Background. Current law requires the use of certified shorthand reporters to create and transcribe the official record of most court proceedings. Typically, the court reporter is the sole owner of all the equipment necessary to perform his or her duties, including the stenotype machine, computer-aided software for transcription, and all of the elements involved in producing the transcript. Also, for the most part, the court reporter transcribes the record on his or her own time, outside of the eight-hour work day. For these reasons, the transcripts are “owned” by the court reporter and must be purchased by the court. In addition to paying for the first copy, the court must pay a reduced rate for additional copies.

California’s exclusive use of certified shorthand reporters contrasts with courts in other states, the federal courts, and even the U.S. Supreme Court. All of these courts use some form of electronic court reporting that involves using video and/or audio devices to record the statements and testimony delivered in the courtroom. The electronic recordings can be used to generate typed transcripts and the actual recording can also be used in a manner similar to a transcript.

A multi-year pilot of electronic reporting equipment was implemented in California courts from 1991 to 1994. This pilot demonstrated budget savings that ranged from \$28,000 to \$42,000 per courtroom per year depending on the technology employed.

Governor’s Budget. The Governor’s budget does not propose any changes to the policies related to court reporting. The AOC reports that in 2006-07 the courts expended approximately \$26 million on transcripts purchased from the court reporters. The courts also report spending approximately \$202 million on salaries and benefits for court reporters in 2006-07.

LAO Recommends Transition to Electronic Reporting. The LAO recommends that the Legislature consider transitioning from court reporters to electronic methods of recording court proceedings as an option for ongoing savings to the state. The LAO has suggested easing the transition by switching to electronic court reporting in just 20 percent of the courtrooms. The LAO has estimated that even after accounting for one-time costs of equipment the state could generate \$13 million in savings in the budget year. This savings would grow to \$53 million by 2010-11. Furthermore, the LAO estimates that the state could save as much as \$111 million annually if electronic court reporting were fully operational in all California courtrooms.

The LAO finds that electronic reporting is a well established and cost-effective practice. Furthermore, the LAO also notes that transitioning to electronic reporting could also help to address the short supply of certified shorthand reporters. A 2005 report by the Judicial Council found that the pool of qualified court reporters had been dwindling for many years and was no longer sufficient to meet their needs. The LAO reports that the number of individuals passing the state hearing reporters examination has declined from 309 individuals in November 1995 to only 38 individuals in October 2007.

- **Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

6. Adjustments in Civil Filing Fees

Background. The trial court system imposes civil fees on parties filing papers related to litigation. For example, the initial filing in a civil case seeking damages is typically \$320, while the charge for filing legal papers to respond to such a filing is also \$320. The revenue from these fees is intended to offset part, but not all, of the expenses incurred by the court that is associated with these cases.

As part of the 2005-06 Budget Act the Legislature passed the Uniform Civil Fees and Standard Fee Schedule Act of 2005. This statute reorganized many of the existing civil filing fees and increased some fees to create uniform statewide fee rates. This measure also stipulated that fees would remain unchanged until December 31, 2007.

Governor's Budget. The Governor's budget does not propose any changes to civil filing fees. Trial Court Trust Fund revenues from civil filing fees and surcharges are projected to be \$424 million in the budget year.

LAO Recommends Increasing Civil Filing Fees. The LAO recommends that the Legislature consider raising civil filing fees because the current fee structure is not generating revenues sufficient to keep pace with the increased costs of court operations. The LAO suggests raising fees to reflect inflation since 2005-06 or just under 10 percent, which would generate \$21 million in additional revenues. Additional fee revenues would allow the state to reduce General Fund support for the trial courts accordingly.

The LAO notes that the share of support for courts from civil fees has declined in recent years because fee rates have not been adjusted for inflation. This has resulted in a greater reliance on the General Fund to support trial court operations.

Staff Comments. Staff finds that there are currently legislative proposals to raise civil filing fees and use the proceeds to augment court operations. For example, SB 1177 (Ridley-Thomas) would investigate raising civil filing fees to pay for dispute resolution programs and AB 3050 (Judiciary) would raise civil filing fees to pay for interpreters in certain civil court proceedings.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request staff, LAO, DOF, and the AOC to explore a proposal to raise civil filing fees to reduce trial court reliance on the General Fund.

Judicial Council/Administrative Office of the Courts

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of \$246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Judicial Council/AOC by \$7.5 million. This reduction level would be reached by taking a one-time \$4.7 million reduction to operations and withdrawing \$2.8 million in workload budget proposals (see items number 2 and 3 below) included in the Governor's budget.

Staff Comments. The AOC has indicated to staff that there would be a significant reduction in the service level provided by AOC if the \$4.7 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Judicial Council and AOC.

Staff Recommendation. Staff recommends that the Subcommittee hold open the proposed unallocated reduction to the Judicial Council/AOC budget.

2. Program Support – Judicial Branch

Background. Since the consolidation of the trial courts there has been a much more concerted effort to provide leadership, operational planning, and administrative support to trial courts on new programmatic efforts. The 2007-08 Governor's budget included \$3.2 million to support 19 new positions at the AOC to support some of these efforts. Ultimately, these funds were not included in the version of the 2007-08 budget that was sent to the Governor.

Governor's Budget and Finance Letter. The Governor's budget included \$1.5 million General Fund to support nine new positions at the AOC in the budget year. These positions would support the following activities:

- **Alternative Dispute Resolution Center** – Two new positions to promote court-connected alternative dispute resolution programs for civil cases.
- **Juvenile Delinquency** – Two new positions to address juvenile delinquency state-level policy development and implementation as well as provide support for delinquency court programs.
- **Self-Help Programs** – One new position to administer, coordinate, support, and evaluate the effectiveness of the self-help programs administered by the trial courts.
- **Education Programs** – One new position to support the training of new judges and new subordinate judicial officers.
- **On-Line Educational Course Development** – Two new positions for the development, implementation, and maintenance of online education courses for judges, commissioners, referees, temporary judges, and court personnel.

- **Appellate Workload** – One new position to work on creating workload standards and measures for the Courts of Appeal.

A Finance Letter (dated April 1, 2008) proposes to withdraw this budget proposal given the state's fiscal condition. The AOC notes that this budget proposal would have supported important workload needs.

Staff Comments. Staff finds that there is merit to many of the program efforts proposed by the courts. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget.

3. Fiscal Support—Judicial Branch

Background. Since the state took over funding for the trial courts there has been a much larger role for the Judicial Council and AOC in producing analysis of policies and procedures that will ensure an effective and efficient trial court system. The 2007-08 Governor's budget included \$3.2 million to support 19 new positions at the AOC to support some of these efforts. Ultimately, these funds were not included in the version of the 2007-08 budget that was sent to the Governor.

Governor's Budget and Finance Letter. The Governor's budget included \$1.3 million General Fund to support eight new positions at the AOC in the budget year. These positions would support the following activities:

- **Emergency Response** - One new position for assistance with ongoing emergency response and court security planning and continuity efforts.
- **Trial Courts and Southern Regional Office** – One new position to provide analytic support to judicial branch committees; respond to court requests for information; implement and staff programs that support collaboration and sharing of resources among courts; and conduct research regarding court operations.
- **Data Quality Control** – Two new positions to provide ongoing data auditing and quality control of trial court operational data.
- **Internal Audit Services** – One new position to address audit needs to help the judicial branch improve its use of public resources and improve operational efficiency.
- **Contracts** – Two new positions to reduce the contracts backlog and to improve statewide procurement efforts.
- **Northern/Central Regional Office** – One new position to provide administrative support to the staff located in this office.

A Finance Letter (dated April 1, 2008) proposes to withdraw this budget proposal given the state's fiscal condition. The AOC notes that this budget proposal would have supported important workload needs.

Staff Comments. Staff finds that there may be a need for some of these administrative staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget.

4. Federal/State Grants

Background. The Administrative Office of the Courts has a grant unit assigned to stay up-to-date on available grants suitable to fund projects and research at the AOC and/or courts.

Governor's Budget and Finance Letter. The Governor's budget proposes a \$1.8 million net increase in the expenditure of federal funds and a \$929,000 net increase in the expenditure of Reimbursements. The AOC has been successful in receiving three federal grants and two state grants. The federal grants are from the Federal Health and Human Services Agency and the Federal Department of Justice and the state grants are from the Office of Emergency Services (OES) and the Office of Traffic Safety (OTS). The AOC will fund the following projects with these grant monies:

- **Protective Order Registry** – This grant will be used to develop a statewide registry of court protective orders available to judges and law enforcement. Federal grant monies (\$1.4 million) will be used to analyze, develop, and design the registry and state funds (\$1 million grant from OES) that will be used to deploy the registry.
- **Child Data Collection** – This federal grant (\$402,000) will help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help jointly plan for the collection and sharing of relevant data and information to ensure safe and timely permanency decisions between the courts and child welfare agencies on the local and state levels.
- **Judge and Attorney Training** – This federal grant (\$402,000) will improve the courts' training of judges and attorneys.
- **Citation Tracking System** – This state grant (\$495,000 grant from OTS) will be used to implement a statewide Citation Tracking System which enables agencies to issue and track citations electronically, provides capability to update driving records more efficiently, and will help in removing dangerous drivers and repeat offenders from California highways and roads in a timelier manner.

The new grants listed above are offset by other expiring grants and revised funding amounts for existing grants.

A Finance Letter (dated April 1, 2008) includes a one-time increase of \$800,000 in federal funds to reflect a change in the grant award schedule for the Federal Child Access and Visitation Grant program. These grant funds are used to provide non-custodial parents with supervised visitation and exchange services, parent education, and group counseling services.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget and Finance Letter changes to the federal and state grants.

5. Information Technology Services—Trial Courts

Background. The AOC is in the process of implementing a statewide employment and financial system for the judicial branch referred to as the Phoenix Project. Significant state resources (over \$110 million) have been dedicated to date to implement this statewide system that will provide the AOC with unified reporting capabilities for all aspects of trial court administrative functions.

To date, 49 courts have implemented Phoenix Financials, which is the financial and accounting component of the Phoenix Project. Implementation of this system includes extensive audits of the local trial court financial operations to ensure that the data being entered in the system is uniform across jurisdictions. The AOC plans to complete the deployment of Phoenix Financials by the end of the current fiscal year.

To date, the human resources component of the Phoenix Project has only been deployed to six of the courts. This system will ultimately restructure and standardize the payroll and other human resources related business practices for the trial courts.

The Phoenix Project has been funded by a mix of General Fund, Trial Court Improvement Fund, and Trial Court Trust Fund. The latter two funds are supported by civil filing fees.

Governor's Budget. The Governor's budget proposal includes \$6 million General Fund to support 37.5 new positions to continue the development and deployment of the Phoenix Project. The AOC anticipates needing an additional \$11 million in 2009-10 to complete the deployment of the project.

Staff Comments. The majority of the new staff resources are needed to provide ongoing support to the new Phoenix systems that will completely replace 58 different county run systems. For example, after the Phoenix Human Resources system is deployed statewide, payroll checks will be processed centrally for the trial court system. This is a big change from the current system, which relies on existing county functions.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

6. Information Technology Services—State Judiciary

Background. In the 2006-07 Budget Act, the Legislature approved 17 limited-term positions to support information technology services for the State Judiciary. This request reflected the need for additional information technology resources to support the State Judiciary.

Governor's Budget. The Governor's budget proposal includes a reduction of \$794,000 and elimination of 6 of the 17 limited-term positions authorized in the 2006-07 Budget Act. The budget proposal would also make permanent the remaining 11 positions authorized in the 2006-07 Budget Act.

Staff Comments. Staff finds that after trial court consolidation the AOC's role was greatly expanded. The AOC now has substantial responsibilities for court facilities and support services for the trial courts. This has resulted in a significant increase in staffing at the AOC, which has resulted in a greater demand for information technology support services.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

7. Mental Health Services Act – Judicial Support

Background. In the 2006-07 Budget Act the AOC received funding from the Department of Mental Health (DMH) through an interagency agreement to strengthen the judicial branch responses in addressing the needs of adult and juvenile mentally ill court users. This funding has been used to support one position dedicated to providing technical assistance to trial courts and serving as a liaison with DMH and other related organizations.

Governor's Budget. The Governor's budget proposal would add an additional position to address the increased workload relating to mental health issues in the courts and to develop a research component to evaluate court appointed programs for the mentally ill. The budget proposal would also make a technical adjustment to switch the funding for the existing position from an interagency agreement with DMH to a direct appropriation. The total funding for this request is \$431,000 from the Mental Health Services Fund, which is offset by a \$137,000 reduction in reimbursements.

Staff Comments. The AOC indicates that a recent survey found that there are 34 existing mental health courts statewide and nine more courts are planned or in development. The improvement in outcomes for mentally ill offenders that participate in some of these collaborative court environments has helped to increase the number of mental health courts statewide. Nevertheless, there continues to be more that needs to be done to further develop the capacity of mental health courts and evaluate outcome measures to improve the current model.

Staff Recommendation. Staff recommends that the Subcommittee adopt this special fund budget proposal.

Supreme Court

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of \$246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Supreme Court by \$2.5 million. This reduction level would be reached by taking a one-time \$1.5 million reduction to operations and withdrawing \$1 million in workload budget proposals (see item number 2 below) included in the Governor's budget.

Staff Comments. Staff finds that the Supreme Court is a unique organization that has relatively few options for significantly reducing its budget without having major impacts on its ability to carry out its mission. For example, the Supreme Court has a very low vacancy rate and does not contract for a lot of services, which makes it difficult to make significant ongoing reductions without impacting personnel.

The AOC has indicated to staff that there would be a significant reduction in the service level provided by the Supreme Court if the \$2.5 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Supreme Court.

Staff Recommendation. Staff recommends that the Subcommittee reject the proposed unallocated reduction to the Supreme Court budget.

2. Supreme Court Workload Adjustments

Governor's Budget and Finance Letter. The Governor's budget proposal included \$1 million General Fund to support four budget proposals to augment the budget for the Supreme Court. Funding was included for the following proposals:

- **Capital Staffing** – \$490,000 to support three new positions to address the increasing death penalty case workload of the Supreme Court. This augmentation is part of an effort to create a unit to provide the court with expert assistance in resolving death penalty appeals and related proceedings in a timely manner.
- **Committee on Judicial Ethics Opinions** - \$444,000 to support two new positions to provide initial staff resources to support the newly created Supreme Court Committee on Judicial Ethics Opinions. The committee is tasked with providing advisory opinions to assist judges in ensuring that their on and off the bench conduct is consistent with ethical limitations that apply to judicial officers.
- **Court Appointed Counsel Program** - \$47,000 to support increased costs for the California Appellate Project – San Francisco (CAP-SF). This proposal will support staffing increases in CAP-SF necessary to improve casework support to appointed counsel, enhance information systems technology and training, and improve the record

collection and preservation process. The CAP-SF provides private court-appointed counsel in capital cases with training and assistance and monitors and supervises the progress of counsel during the appellate process.

- **Law Library and Subscriptions** - \$28,000 to support increased costs of legal books and subscriptions for the California Judicial Center Library.

A Finance Letter (dated April 1, 2008) proposes to withdraw all the budget proposals listed above given the state's fiscal condition.

Staff Comments. Staff finds that there may be a need for some of these staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Supreme Court's budget.

Courts of Appeal

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of \$246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Courts of Appeal by \$11.3 million. This reduction level would be reached by taking a one-time \$10.6 million reduction to operations and withdrawing \$700,000 in workload budget proposals (see item number 2 below) included in the Governor's budget.

Staff Comments. The AOC has indicated to staff that there would be a significant reduction in the service level provided by Courts of Appeal if the \$11.3 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Courts of Appeal.

Staff Recommendation. Staff recommends that the Subcommittee hold open the proposed unallocated reduction to the Judicial Council/AOC budget.

2. Courts of Appeal Workload Adjustments

Governor's Budget and Finance Letter. The Governor's budget proposal included \$700,000 General Fund to support two proposals to augment the budget for the Courts of Appeal. Funding was included for the following proposals:

- **Mediation Program Expansion** – \$229,000 to support two settlement conference coordinator positions, one each in the Fourth Appellate District, Division One, San Diego and the Sixth Appellate District, San Jose. Due to personnel limitations these two courts are unable to establish settlement or mediation programs.
- **Fourth Appellate District, Riverside Workload** - \$430,000 to support three positions for the Fourth Appellate District, Riverside court. This court has seen a considerable increase in caseload due to 15 new trial court judges in the region, significant increases in the number of public defenders and district attorneys in the region, and the special team of judges that was appointed to address the backlog of criminal cases in Riverside Superior Court.

A Finance Letter (dated April 1, 2008) proposes to withdraw all the budget proposals listed above given the state's fiscal condition.

Staff Comments. Staff finds that there may be a need for some of these staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Courts of Appeal budget.

3. Temporary Space - Third Appellate District

Background. The 2005-06 Budget Act appropriated \$49 million to renovate the historic State Library and Courts Building located on Capitol Mall in Sacramento. The current tenants of that building are the Third Appellate District Court, the Supreme Court, and the State Library. A study by the project manager for this project, Department of General Services, determined that maintaining occupancy during construction was not feasible.

After the remodel, the library staff will be permanently relocated to a building (900 N Street) across the street from the historic building and the Court and Clerk will be consolidated in the restored historic Library and Courts Building. (The Clerk is currently located in the 900 N Street building.)

Governor's Budget. The Governor's budget proposal includes \$8 million General Fund to temporarily relocate the Third Appellate District Court and clerk's staff during the construction phase of the historic Library and Courts building capital outlay renovation project. The funding is needed for tenant improvements and rent for the temporary space.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

4. Equipment for New Courthouse - Fourth Appellate District

Background. Construction of a new court facility for the Fourth Appellate District, Division Three (Orange County) is scheduled to be completed by May or June of 2009. The new facility will be 53,000 square feet and will replace approximately 34,000 square feet of leased space in two buildings that the court is currently using.

Governor's Budget. The Governor's budget proposal includes \$1.6 million from the Appellate Court Trust Fund and \$70,000 from the General Fund for essential non-capital furniture, equipment, and fixtures needed to make the building operational as an appellate court. (Of the total amount, \$2,000 is proposed for ongoing maintenance of equipment.) The proposal will fund the following items:

| Item | Costs |
|--|--------------------|
| Telephone System | \$518,000 |
| Data (Computing) Infrastructure | 191,000 |
| New Free Standing Furniture | 475,000 |
| Reused or Refurbished Free Standing Furniture (Judges Furniture) | 64,000 |
| Bookshelves | 227,000 |
| Office Equipment (Copiers and Faxes) | 39,000 |
| Audio Visual Equipment | 179,000 |
| Ongoing Maintenance | 2,000 |
| Moving and Relocation | 120,000 |
| <i>less Architectural Revolving Funds</i> | <i>-185,000</i> |
| Total | \$1,630,000 |

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

Habeas Corpus Resource Center

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of \$246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Habeas Corpus Resource Center (HCRC) on a one-time basis by \$778,000 General Fund.

Staff Comments. There are approximately 300 sentenced persons on death row that do not have a habeas corpus lawyer. This caseload continues to grow by about 19 annually. Persons sentenced to death currently wait an average of 10 years before a habeas corpus lawyer is appointed. Meanwhile, witnesses die or move away and evidence is destroyed making it more difficult to carry out a fair administration of justice. Further reductions to the HCRC would further exacerbate the backlog of sentenced persons that need habeas corpus lawyers.

Staff has not received specific information on the impacts of the budget reductions to the HCRC.

Staff Recommendation. Staff recommends that the Subcommittee reject the proposed unallocated reduction to the HCRC.

2. Caseload Tracking

Background. As mentioned above, there is currently a considerable backlog of inmates on death row that do not have habeas corpus counsel appointed. This caseload continues to grow by approximately 19 annually.

Governor's Budget. The Governor's budget proposal includes \$139,000 (\$21,000 one-time) General Fund to establish two positions to provide litigation support for the legal defense of death row prisoners.

Staff Comments. Staff finds that habeas corpus proceedings require a significant amount of research and on average take about twice as long as direct appeals cases. This is one of the reasons that the backlog of persons on death row without a habeas corpus lawyer appointment continues to grow. Staff finds that additional litigation support would help to increase the productivity of the habeas corpus lawyers, thereby allowing the lawyers to take more cases in any given year.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

Administrative Office of the Courts: Office of Court Construction and Management

Background. The Office of Court Construction and Management was established in August 2003 as a division of the AOC to implement the Trial Court Facilities Act of 2002, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), that shifts governance of California's courthouses from the counties to the state. The office is responsible for the following activities:

- **Court Facilities Transfers.** The office is responsible for managing the transfer of responsibility and title for more than 450 court facilities from the counties to the state. The Judicial Council and the AOC represent the state in all aspects of transfer negotiations, assume responsibility for the administration and maintenance of court

facilities following transfer, and administer all court construction and improvement projects.

- **Trial Courts Capital Outlay Planning.** Trial court and county leaders collaborate with the office to develop a 20-year facility master plan for each of the 58 superior courts in California. The projects were rated using a procedure approved by the Judicial Council and were subsequently consolidated in the AOC's *Trial Court Five-Year Capital Outlay Plan*.
- **Trial Courts Consultation and Advocacy.** The office directly supports the trial courts' facility planning initiatives. Because the counties are responsible for providing the trial courts with "necessary and suitable" facilities until the transfers are executed, the office assists courts in identifying their facility needs and advocating for their positions with the counties.
- **Trial Courts Operations and Maintenance.** The office manages the delivery of facilities operations and maintenance services to courts following transfer. The office maintains a call center for court staff to report facilities problems and is implementing Computer-Aided Facilities Management, a Web-based system that houses data, documentation, and processes related to the design, construction, operations, and maintenance of court buildings.
- **Appellate Courts Acquisition and Development.** The office will establish a comprehensive five-year capital facilities plan for the appellate courts based on their needs and preexisting programs and will work closely with the courts to meet their space requirements. The office will also oversee design and construction of new appellate courthouses.

Governor's Budget. The Governor's budget proposes \$183.4 million to support the Judicial Branch's capital outlay program. This is a significant increase over estimated expenditures in the current year. The increase is mainly due to the proposed construction of four new courthouse projects funded by a proposed new court facilities bond.

| Summary of Expenditures | | | | |
|--|-----------------|------------------|-----------------|--------------|
| (dollars in thousands) | 2007-08 | 2008-09 | \$ Change | % Change |
| Type of Expenditure | | | | |
| Courts of Appeal | \$5,306 | \$0 | -\$5,306 | -100.0 |
| Trial Courts | 89,115 | 183,436 | 94,321 | 105.8 |
| Total | \$94,421 | \$183,436 | \$89,015 | 94.3 |
| Funding Source | | | | |
| State Court Facilities Construction Fund | 89,115 | 121,852 | 32,737 | 36.7 |
| 2008 Judicial Bond Fund | 0 | 61,584 | 61,584 | 0.0 |
| <i>Budget Total</i> | <i>89,115</i> | <i>183,436</i> | <i>94,321</i> | <i>105.8</i> |

| | | | | |
|-----------------------------------|----------|-----------|----------|------|
| Public Building Construction Fund | 5,306 | 0 | - | - |
| Total | \$94,421 | \$183,436 | \$89,015 | 94.3 |

1. Court Infrastructure Bond—Informational Item

Background. The Judicial Branch has identified \$9.7 billion in its 2008-09 Five-Year Infrastructure Plan. This plan is the result of a significant master planning process undertaken by the courts for both the appellate courts and the trial courts in each of the 58 counties. The master plans have a 20-year planning horizon. The facility requirements were based on the following guidelines and guiding principles:

- A Judicial Council adopted methodology to project and standardize statewide judicial needs based on a set of judicial workload standards and applied to census-based population data and historical caseload data. This methodology is also being used to project the need for future judgeships.
- Trial Court Facility Guidelines that were developed by a Task Force and adopted by the Judicial Council for developing space requirements. Application of these guidelines results in 8,500 to 10,000 usable square feet per courtroom.
- Local trial court public service objectives were also considered, including the distribution of court cases in each county.

The AOC has also developed a methodology for ranking the trial court capital outlay projects by evaluating four program objectives. All of the projects identified in the court master plan process were prioritized based on the following program objectives:

- Improve Security
- Reduce Overcrowding
- Correct Physical Hazards
- Improve Access to Court Services

Metrics were identified to reflect each of the program objectives and each court facility project was evaluated and given a rating. Based on these ratings, the projects were then categorized into five priority groupings. The court has not attempted to rank the projects within each of the five priority groupings. The 2008-09 Five-Year Infrastructure Plan has identified \$9.7 billion in court facility projects that are categorized into the following priority groupings:

- Immediate Need - \$2.9 billion
- Critical Need - \$1.7 billion
- High Need - \$2 billion
- Medium Need - \$1.1 billion
- Low Need - \$500 million
- Parking Needs - \$500 million
- Space for 100 New Judgeships - \$895 million

Governor's Bond Proposal. The Governor has proposed \$2 billion in general obligation bonds for new and expanded court facilities. The Governor indicates that the \$2 billion being proposed will handle the most critical infrastructure needs and allow the courts to leverage private funding through public-private partnerships.

Staff Comments. Staff notes that legislation (SB 1407, Perata) authorizing a court construction bond is currently pending in the Legislature.

2. Appellate Courts Capital Outlay—Informational Item

2008-09 Five-Year Infrastructure Plan. The Judicial Branch has identified three new appellate court projects in its 2008-09 Five-Year Infrastructure Plan. The 2008-09 Five-Year Infrastructure Plan proposes \$26.8 million in General Fund support to start the acquisition phase for these three projects. The new court projects would replace existing leased space and are located in the following jurisdictions:

- Fourth Appellate District, Division One – San Diego
- Fourth Appellate District, Division Two – Riverside
- Sixth Appellate District – San Jose

Currently, there are two appellate courthouse projects that are being constructed to replace existing leased space. The following two courthouse projects are under construction:

- Fourth Appellate District, Division Three – Santa Ana
- Fifth Appellate District – Fresno

Construction on the Santa Ana project started in fall 2007. The courthouse project in Fresno is scheduled to be completed in summer 2008.

Governor's Budget. The Governor's budget does not provide any funding to support new appellate court projects in the budget year.

3. Trial Courts Facility Transfers and Capital Outlay

Background on Trial Court Facility Transfers. The counties started transferring court facilities to the state in 2004-05. To date, 119 facilities have been transferred to the state. Initially, there were delays in transferring the facilities because a significant number of the court facilities were in need of seismic upgrades that prevented them from being transferred to the state. Legislation enacted in 2006, SB 10 (Dunn), addressed this issue by allowing buildings that need significant seismic upgrades to be transferred to the state so long as liability for all earthquake-related damage remains with the counties. Nevertheless, over 330 court facilities remain to be transferred to the state.

Existing law required that the counties transfer the court facilities to the state by June 30, 2007. Legislation (AB 1491, Jones) to extend this date is currently being considered by the Legislature. Under the new legislation, counties would have until December 31, 2009 to transfer the court facilities to the state. The legislation would also implement two penalties for facilities that are

transferred after October 1, 2008 and after April 1, 2009. For court facilities transferred to the state after October 1, 2008, they would have to pay a higher court facility payment adjusted by the National Implicit Price Deflator for State and Local Government Purchases. For the court facilities transferred to the state after April 1, 2009, the counties would have to pay a higher court facility payment adjusted by the State Appropriations Limit. The Senate Appropriations Committee estimates that penalty revenues could result in about \$1 million in additional county facility payments from the counties to the state.

As part of the 2007-08 Budget Act, the Legislature enacted Chapter 176, Statutes of 2007 (SB 82, Budget) that included several changes to the trial court facility transfer process. These changes include the following:

- Allowed the Judicial Council to enter into public-private partnerships to construct new courthouse projects as long as benchmarks and performance criteria are submitted to the Legislature.
- Restricted new expenditures from the Court Facilities Construction Fund unless the increased expenditures are offset by increased revenues to the fund. (In the absence of a general obligation bond, this fund is the primary funding source for court construction projects and the courts have fully obligated this fund for the next several years funding 11 courthouse projects.)
- Required that Judicial Council develop disposition plans for courthouse properties transferred to the state before the construction of new courthouse projects in the same jurisdiction.

2008-09 Five-Year Infrastructure Plan. The 2008-09 Five-Year Infrastructure Plan has identified \$183.3 million (\$55 million General Fund) for 15 trial court projects considered “Immediate Need.”

Governor’s Budget and Finance Letter. The Governor’s budget contains \$113.4 million from the Trial Court Facilities Construction Fund to continue support for 11 courthouse projects that were started in prior fiscal years. The Governor’s budget also contains \$62 million in funding from proceeds of the general obligation bond for four new court facilities proposed by the Governor.

The budget proposes general obligation bond funding to start the acquisition phase for the following four projects:

- **Tehama - New Red Bluff Courthouse.** The Governor’s budget proposal includes \$16.3 million from a proposed general obligation bond for the acquisition phase to construct a new 5-court courthouse in or near the city of Red Bluff in Tehama County. The AOC and the county have not located a site for the new facility. The total estimated project cost is \$72.9 million.

The project will consolidate court operations from five facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project:

- Historic Courthouse – county to maintain once vacated by the court.
- Tehama County Courts Building (Annex 2) – county may keep this space.

- Family Law Commissioner – lease will be terminated.
- Corning Courthouse – facility to be sold or leased.
- Court Storage – lease will be terminated.

These facilities have not been transferred to the state.

- **Yolo - New Woodland Courthouse.** The Governor's budget proposal includes \$8.1 million from a proposed general obligation bond for the acquisition phase to construct a new 14-court courthouse in or near the city of Woodland in Yolo County. The AOC has identified property across the street from the historic courthouse on a site currently occupied by the Old Jail building. The city of Woodland has signed a resolution to donate this property for the new courthouse building. The total estimated project cost is \$158.4 million.

The project will consolidate court operations from six facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project:

- Historic Courthouse – county to maintain once vacated by the court.
- Old Jail (Department 9) – may be demolished to construct new courthouse.
- Family Support and Alternative Dispute Resolution (Department 16) – county to maintain once vacated by the court.
- Family and Designated Department (Department 11) – leased space, lease to be terminated.
- Fiscal, Human Resources, and Training – leased space, lease to be terminated.
- Traffic/Small Claims/UD and Drug Court/Proposition 36 courtrooms (Departments 10 and 12) – leased space, lease to be terminated.

All six of the existing facilities have been transferred to the state.

- **Butte - New North Butte County Courthouse.** The Governor's budget proposal includes \$14.5 million from a proposed general obligation bond for the acquisition phase to construct a new 5-court courthouse in or near the city of Chico in Butte County. The AOC and the county have not located a site for the new facility, but are evaluating alternative sites for a larger northern county government complex. The total estimated project cost is \$79.7 million.

The project will consolidate court operations from two facilities, both of which will be vacated by the court after construction of the new project. The following two facilities will be vacated by the new project:

- Chico Courthouse – county may keep this space.
- Paradise Courthouse – AOC will offer equity sale to county, but space may be vacated by county and court and sold.

Both of the existing facilities have been transferred to the state.

- **Los Angeles - New Southeast Los Angeles Courthouse.** The Governor's budget proposal includes \$22.7 million from a proposed general obligation bond for the acquisition phase to construct a new 9-court courthouse in the Huntington Park-South Gate area of Los Angeles County. The total estimated project cost is \$122.5 million.

The project will replace the Huntington Park Courthouse and will return the lost operations of the former South Gate Courthouse. No criminal court services have been available to the Huntington Park and South Gate communities since criminal court operations were transferred to the Downey Courthouse in 2004. Also in 2004, the county closed the former South Gate Courthouse leaving the Huntington Park Courthouse to handle all non-criminal matters for the two communities. The land that the Huntington Park Courthouse is on is leased by the City of Huntington Park. Upon termination of the ground lease with the city the city will take control of the building.

The now closed South Gate Courthouse is not considered an existing facility and will not be transferred to the state. The AOC is working on transfer of responsibility of the Huntington Park Courthouse.

The budget proposes funding from the Trial Court Facilities Construction Fund for construction of the following three projects:

- **Contra Costa - New Antioch Area Courthouse.** The Governor's budget proposal includes \$51.6 million from the State Court Facilities Construction Fund for construction of a new seven-court courthouse in eastern Contra Costa County.

The site for this building was selected and approved by the Public Works Board in September 2007. The site is adjacent to and south of the existing courthouse that is being replaced in the City of Pittsburg. The county did donate land, but several properties tangent to the site need to be acquired. The county did not want to purchase equity in the existing courthouse and the existing courthouse will be demolished to accommodate the completion of a governmental center planned by the city. Preliminary plans were approved by the Public Works Board in February 2008.

The Legislature has appropriated \$13.1 million from the State Court Facilities Construction Fund for this project since 2005-06. The total estimated project cost is \$64.7 million.

- **Plumas and Sierra - New Portola/Loyalton Court.** The Governor's budget proposal includes \$5.4 million from the State Court Facilities Construction Fund for construction of a new one-court courthouse in the Sierra Valley of Plumas County to serve both Plumas and Sierra Counties.

Site selection and acquisition for this project was approved by the Public Works Board in October 2007. Approval of preliminary plans is scheduled for March 2008. The new courthouse will replace a part-time courthouse in Portola and leased space in Loyalton. The county will buyout the court for the space in the part-time courthouse in Portola and the lease on the space in Loyalton will be terminated.

The Legislature has appropriated \$1.1 million from the State Court Facilities Construction Fund for this project since 2006-07. The total estimated project cost is \$6.5 million.

- **Mono - New Mammoth Lakes Court.** The Governor's budget proposal includes \$13.1 million from the State Court Facilities Construction Fund for construction of a new two-court courthouse in Mammoth Lakes, Mono County. A Finance Letter (dated April 1, 2008) proposes an additional \$5.6 million for construction and \$219,000 for working drawings from the State Facilities Construction Fund. The increased costs are primarily due to adjustments needed to address active seismic activity in the area and heavy snow loads. The increased costs also reflect a revised construction schedule because extreme weather construction can only occur between May and October.

Site selection for this project was approved by the Public Works Board in March 2007. The new courthouse will be part of a complex that will include the Southern Mono Hospital District, the town of Mammoth Lakes and Mono County. The complex will be constructed on land acquired from the U.S. Forest Service. Site acquisition was approved at the February 2008 State Public Works Board meeting. The court currently occupies leased space in a shopping mall. This lease will be terminated once the new project is constructed.

The Legislature has appropriated \$2.8 million from the State Court Facilities Construction Fund for this project since 2006-07. The total estimated project cost is \$21.5 million.

The budget proposes funding from the Trial Court Construction Fund to support the preliminary plans phase for the following projects:

- **Madera - New Madera Court.** The Governor's budget proposal includes \$3.7 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 10-court courthouse in or near the City of Madera. This project had been an 11-court courthouse, but because of revised judicial need estimates it has been reduced by once courtroom.

Site selection is in process and an advisory group of court and county members has been formed to review and select a site for the new courthouse. The acquisition phase is scheduled to be complete in January 2009. There are two existing facilities that will be replaced by this project. The court will offer to sell the existing Madera Superior Courthouse to the county and the lease for the Madera Family Court Services facility will be terminated.

The Legislature appropriated \$3.4 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$97 million.

- **San Bernardino - New San Bernardino Court.** The Governor's budget proposal includes \$13 million from the State Court Facilities Construction Fund for the

preliminary plans phase to build a new 36-court courthouse in the City of San Bernardino.

A site across the street from the Historic San Bernardino Courthouse has been selected for the new courthouse project and was approved by the Public Works Board in December 2007. The site was donated by the county and the acquisition phase is scheduled to be complete by June 2008.

The County of San Bernardino has passed a resolution in support of this project, including a redirection of \$8.8 million in county funds that had been set-aside for a seismic retrofit of an existing courthouse facility. The county has also agreed to buyout the court's equity value of several existing court facilities and in exchange the county is providing the site for the new courthouse. The county has agreed to buyout the court's equity in the following court facilities that will be replaced by the new courthouse project:

- Court Executive Office
- Appellate and Appeals North Annex
- Juvenile Delinquency Courthouse
- San Bernardino Juvenile Traffic
- Redlands Courthouse
- Twin Peaks Courthouse

The court is also planning to vacate the San Bernardino Courthouse Annex (T-Wing), but the county has not agreed to buyout the court's equity in this building. The courts are currently evaluating options for using this property, including using the building for court storage.

There is an additional court facility that will be impacted by the construction of the new San Bernardino courthouse. The Rialto caseload that is currently being served in the Fontana Courthouse will be transferred to the new San Bernardino courthouse once it is completed. This will free up additional space in the Fontana Courthouse that the court will continue to occupy. Furthermore, the county is pursuing the renovation of the Historic San Bernardino Courthouse into a nine-court courthouse that will handle civil caseloads. The county is also pursuing renovation of 303 Third Street for long-term use for two Child Support Commissioners.

The Legislature appropriated \$4.8 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$338.4 million.

- **San Joaquin - New Stockton Court.** The Governor's budget proposal includes \$9.9 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 30-court courthouse in downtown Stockton.

A site adjacent to the existing courthouse has been offered as a site for this project by the County of San Joaquin. However, the site has not been officially selected or approved by

the Public Works Board. The acquisition phase is expected to be completed by June 2008.

The existing Stockton Courthouse was transferred to the state in May 2007. This facility will be replaced by the new courthouse and an agreement has been reached with the county to buyout the court's equity in the existing facility.

The Legislature appropriated \$6.6 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$259.9 million.

- **Riverside – New Mid-County Region Court.** The Governor's budget proposal includes \$2.3 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 6-court courthouse in or near the City of Banning in Riverside County.

The AOC has formed a Project Advisory Group with the community to review potential sites for this project. Five sites have been selected for further evaluation and selection. The AOC expects the acquisition phase will be completed by March 2009. The existing courthouse that will be replaced was transferred to the state in June 2007. The AOC will offer to sell the existing space to the county, but no final arrangements have been made to dispose of the existing facility.

The Legislature appropriated \$3.3 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$63 million.

- **Tulare – New Porterville Court.** The Governor's budget proposal includes \$3.3 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 9-court courthouse in the City of Porterville.

The AOC has formed a Project Advisory Group with the community to review potential sites for this project. Primary and secondary sites have been selected and the AOC expects to complete the acquisition phase by March 2009. This project will replace two court facilities with five courtrooms. The existing Porterville Courthouse was transferred to the state in May 2007. The AOC will offer to sell the existing space to the county, but no final arrangements have been made to dispose of the existing facility.

The Legislature appropriated \$4.4 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$91 million.

The budget proposes funding from the Trial Court Construction Fund to support the preliminary plans phase and working drawing phase for the following projects:

- **San Benito – New Hollister Court.** The Governor's budget proposal includes \$3.3 million from the State Court Facilities Construction Fund for preliminary plans and working drawings to build a new 3-court courthouse in the City of Hollister.

The county has committed to donating land (valued at \$5.5 million) for the new courthouse in exchange for the equity buyout of court facilities in the existing Civic Center Building in the City of Hollister. Site selection was approved at the March 2008 Public Works Board meeting and the AOC expects to complete the acquisition phase by July 2008. This project will replace the existing court facilities in the existing Civic Center building in the City of Hollister. These court facilities were transferred to the state in July 2007.

The Legislature appropriated \$541,000 from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$36.2 million.

- **Calaveras – New San Andreas Court.** The Governor’s budget proposal includes \$4.1 million from the State Court Facilities Construction Fund for preliminary plans and working drawings to build a new 4-court courthouse in the City of San Andreas.

The county has committed to donating land (valued at \$316,000) for the new courthouse that will be applied to the equity buyout of the court occupied space in the existing shared-use facility. Site selection was approved at the March 2008 Public Works Board meeting and the AOC expects to complete the acquisition phase by June 2008. This project will replace the court facilities in an existing shared-use facility and a leased modular building. Both of these facilities transferred to the state in June 2007. The county will buyout the court equity in the existing building and the lease for the modular space will be terminated.

The Legislature appropriated \$845,000 from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$43.6 million.

- **Lassen – New Susanville Court.** The Governor’s budget proposal includes \$3.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville.

The AOC has formed a Project Advisory Group with the community to review potential sites for the project. Site selection began in December 2007 and the AOC expects that the acquisition phase will be completed by September 2008. This project will replace three county court facilities. The court will vacate the Historic Lassen County Courthouse and the county will continue to occupy and maintain this facility. The Courthouse Annex and Self-Help Center leased space were transferred to the state in June 2007. The AOC will offer to sell the Courthouse Annex to the county, but no final arrangements have been made to dispose of the existing facility. The lease for the Self-Help Center will be terminated.

The Legislature appropriated \$1.5 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be \$38.8 million.

LAO Withholds Recommendation on Bond Funded Projects. The LAO withholds recommendation on the four new bond-funded courthouse projects because two of the facilities they would replace have not been transferred to the state. In addition, the LAO finds that these new projects need to be examined in the context of the state's overall infrastructure plan.

Other LAO Recommendations. The LAO also recommends that legislation be enacted that requires that the courthouses they replace be transferred to the state before funding for the new courthouse projects can be released. The LAO notes that this is consistent with conditions imposed in previous budget bills.

The LAO also recommends going forward on the other 11 courthouse projects that had previously been approved by the Legislature.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Without prejudice to the projects, reject the four bond-funded projects pending authorization of a court construction bond.
- Approve the 11 projects funded by the State Court Facilities Construction Fund.
- Approve draft trailer bill language to ensure that courthouse facilities being replaced transfer to the state before funding for construction of new courthouses is released.

4. Court Facility Operations and Maintenance

Background. Upon transfer of responsibility and/or title to the state, counties provide funding for facilities operation and maintenance costs based on historic funding patterns. These payments are referred to as county facility payments (CFPs) and are calculated for each facility prior to the transfer of responsibility and/or title of each court facility. County facility payments are deposited in the Court Facilities Trust Fund to support operations and maintenance of court buildings that have been transferred to the state.

Any costs for operating and maintaining court facilities above the CFPs made by counties are the responsibility of the state. Statutory changes that were enacted as part of the 2006-07 budget provide for increases in state funding for operating and maintaining court facilities in the future. Specifically, beginning two years after the transfer of a facility, inflationary cost adjustments for operations and maintenance are provided in accordance with the State Appropriations Limit.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) have three proposals related to court facility operations and maintenance. The proposals are summarized below:

- **Adjustment for Additional CFPs.** The Governor's budget proposal augments expenditure authority from the Court Facilities Trust Fund by \$9.2 million and increases reimbursements by \$811,000 in the budget year to enable expenditure of CFPs for 40 additional court facilities that have been transferred to the state in the current year. The increased revenues to the Court Facilities Trust Fund are also due to lease revenues from the Long Beach Court.

A Finance Letter (dated April 1, 2008) proposal includes \$2.4 million in additional expenditure authority from the Court Facilities Trust Fund and \$588,000 in reimbursements to enable expenditure of CFPs for five additional court facilities that have been transferred to the state in the current year and 13 additional facilities that are expected to transfer.

In summary, expenditure authority from the Court Facilities Trust Fund will be augmented by \$11.6 million in the budget year and reimbursement authority will be increased by \$1.4 million.

- **Adjustment for New Facilities.** The Governor's budget proposes to transfer \$525,000 General Fund to the Court Facilities Trust Fund to cover the additional operations and maintenance costs of the new Alameda Juvenile Justice Center, the new Fresno Juvenile Delinquency Courthouse, the new Madera County Superior Courthouse, and the new Merced Iris Garrett Juvenile Justice Center.

These projects will replace smaller outdated facilities and the AOC indicates that the CFPs for the existing facilities will not cover the costs of the new facilities. All of the new facilities have transferred to the state except for the Fresno Courthouse. The Fresno Courthouse is currently under construction and is scheduled to be completed by January 2009.

- **Trial Court Facilities Modifications.** The Governor's budget proposes to allocate \$17 million annually from the State Court Facilities Construction Fund and \$5 million in reimbursements to support facility modifications of trial court facilities that have been transferred to the state. The AOC defines facility modifications as physical modification to a facility component that restores or improves the designed level of function of a facility. This augmentation would bring the total allocation available for facility modification needs of the trial courts to \$25 million.

Building Maintenance Payments From Counties Fall Short. The amount paid annually by the counties in the form of a County Facilities Payment (CFP) is being determined when each court facility is transferred to the state and is based on a five-year average of operations and maintenance costs developed five years ago. The state is finding that, in many cases, these maintenance payments do not adequately cover the operations and maintenance costs of the buildings, especially given the age and condition of many of these buildings.

As mentioned above, the CFPs are adjusted by the State Appropriations Limit two years after the building has transferred from the county to the state. However, even this amount may not be adequate to address all of the operations and maintenance needs of these aging court buildings. Even though many facilities transferred to the state in the current year the AOC has not asked for a supplemental General Fund appropriation to fully fund the operations and maintenance costs of the transferred facilities.

The legislation (AB 1491, Jones) to extend the date at which counties can transfer their courthouse facilities to the state is currently pending in the Assembly. This legislation would

provide marginal increases to the CFPs paid by counties if they did not transfer their facility to the state before certain deadlines. The Senate Appropriations Committee estimates that additional CFP payments could be \$1 million annually.

Staff Comments. When all of the court facilities are transferred to the state, the AOC will be managing a significant portfolio of properties. Staff finds that it is sensible to have annual funds budgeted for special repairs and other modifications that must be made to the facilities. This is consistent with how many other large state agencies budget for facility modifications.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget and Finance Letter adjustments for additional CFPs.
- Approve the funding for new facilities transferred to the state.
- Approve the funding for court facility modifications.